

## **REMARKS**

The enclosed is responsive to the Final Office Action mailed on September 3, 2008. At the time the Examiner mailed the Office Action claims 12-19 and 35-36 were pending. By way of the present response Applicant has amended claim 36 in order to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. No claims have been canceled. New claims 106-107 have been added. Applicant respectfully disagrees with the entirety of the Office Action and requests reconsideration of the present application and the allowance of all claims now presented.

### **Claim Rejections - 35 U.S.C. § 102**

The Examiner has rejected claims 12-18 and 35-36 under 35 U.S.C. § 102(b) as being anticipated by *Phelps* (U.S. Patent No. 5,382,259). The Examiner has rejected claim 19 under 35 U.S.C. § 102(a) as being anticipated by *Phelps* (U.S. Patent No. 5,382,259). Applicant respectfully submits that *Phelps* does not disclose or suggest each and every feature of the invention as claimed in claims 12-19 and 35-36.

#### **CLAIM 12**

Applicant teaches and claims in claim 12 a contraceptive or sterilization device for occluding a reproductive body lumen to prevent the passage of reproductive cells therethrough, comprising, *inter alia*, “a mesh member connected to the tubular member, which is permeable to allow for tissue ingrowth to thereby occlude the reproductive body lumen.”

The Examiner suggests on pages 2-3 of the Office Action mailed September 3, 2008 that *Phelps* allegedly discloses a vasoocclusion coil which is “capable of preventing the

passage of reproductive cells therethrough” and a mesh 130 which allows for tissue ingrowth to thereby occlude the reproductive body lumen. Applicant disagrees.

As described in the background section of *Phelps*, occlusion of a blood vessel can be accomplished with a coil having fibrous elements which facilitate clot formation and tissue growth within a blood vessel. Thus, the fibrous elements rely upon the blood flow within a blood vessel in order to facilitate clot formation and tissue growth. *Phelps* does not disclose or suggest that the vasoocclusion device is an occlusive device absent the flow of blood present in the vasculature. Accordingly, *Phelps* does not disclose or suggest that the mesh 130 “is permeable to allow for tissue ingrowth to thereby occlude the reproductive body lumen” as is taught and claimed by Applicant in independent claim 12.

Therefore, Applicant respectfully requests the withdrawal of the rejection of claim 12 under 35 U.S.C. § 102(b) over *Phelps*.

#### CLAIM 13

Applicant teaches and claims in claim 13 a contraceptive system, comprising, *inter alia*, an occluding member comprising an epithelialized mesh member which “occludes the lumen of the patient’s reproductive system sufficiently to prevent the passage of reproductive cells therethrough.”

As described in the background section of *Phelps*, occlusion of a blood vessel can be accomplished with a coil having fibrous elements which facilitate clot formation and tissue growth within a blood vessel. Thus, the fibrous elements rely upon the blood flow within a blood vessel in order to facilitate clot formation and tissue growth. *Phelps* does not disclose or suggest that the vasoocclusion device is an occlusive device absent the flow of blood present in the vasculature, nor does *Phelps* disclose that vasoocclusion device is prevents the passage of reproductive cells. Accordingly, *Phelps* does not disclose or suggest the vasoocclusion device “occludes the lumen of the patient’s reproductive system sufficiently to

prevent the passage of reproductive cells therethrough” as is taught and claimed by Applicant in independent claim 13.

Therefore, Applicant respectfully requests the withdrawal of the rejection of claim 13 under 35 U.S.C. § 102(b) over *Phelps*.

#### CLAIM 14

Applicant teaches and claims in claim 14 a contraceptive system, comprising, *inter alia*, a mesh member which “is permeable to allow for tissue ingrowth to thereby occlude the reproductive body lumen.”

As described in the background section of *Phelps*, occlusion of a blood vessel can be accomplished with a coil having fibrous elements which facilitate clot formation and tissue growth within a blood vessel. Thus, the fibrous elements rely upon the blood flow within a blood vessel in order to facilitate clot formation and tissue growth. *Phelps* does not disclose or suggest that the vasoocclusion device is an occlusive device absent the flow of blood present in the vasculature. Accordingly, *Phelps* does not disclose or suggest that the mesh 130 “is permeable to allow for tissue ingrowth to thereby occlude the reproductive body lumen” as is taught and claimed by Applicant in independent claim 14.

Therefore, Applicant respectfully requests the withdrawal of the rejection of claim 14 under 35 U.S.C. § 102(b) over *Phelps*.

#### CLAIMS 15-18

Applicant teaches and claims in claims 15-18 “A method of contraception.” Applicant respectfully submits that *Phelps* is completely void of any methods of contraception.

Therefore, Applicant respectfully requests the withdrawal of the rejections of claims 15-18 under 35 U.S.C. § 102(b) over *Phelps*.

#### CLAIM 19

Applicant teaches and claims in claim 19 a contraceptive or sterilization device for occluding a fallopian tube to inhibit contraception, comprising, *inter alia*, a “tissue ingrowth element inciting tissue ingrowth to thereby occlude the fallopian tube.”

As described in the background section of *Phelps*, occlusion of a blood vessel can be accomplished with a coil having fibrous elements which facilitate clot formation and tissue growth within a blood vessel. Thus, the fibrous elements rely upon the blood flow within a blood vessel in order to facilitate clot formation and tissue growth. *Phelps* does not disclose or suggest that the vasoocclusion device is an occlusive device absent the flow of blood present in the vasculature. Accordingly, *Phelps* does not disclose or suggest that the mesh  
130 “inciting tissue ingrowth to thereby occlude the fallopian tube” as is taught and claimed by Applicant in independent claim 19.

Therefore, Applicant respectfully requests the withdrawal of the rejection of claim 19 under 35 U.S.C. § 102(a) over *Phelps*.

#### CLAIM 35

Applicant teaches and claims in claim 35 “A sterilization device occluding a reproductive body lumen to prevent the passage of reproductive cells therethrough.” Applicant respectfully submits that *Phelps* is completely void of an occluded reproductive body lumen.

Therefore, Applicant respectfully requests the withdrawal of the rejection of claim 35 under 35 U.S.C. § 102(b) over *Phelps*.

#### CLAIM 36

Applicant teaches and claims in claim 36, “A contraceptive device installed within a lumen of a patient’s reproductive system” and a “mesh member permeable and receiving

tissue ingrowth therein so as to occlude the reproductive body lumen.” Applicant respectfully submits that *Phelps* is completely void of an occluded reproductive body lumen.

Therefore, Applicant respectfully requests the withdrawal of the rejection of claim 36 under 35 U.S.C. § 102(b) over *Phelps*.

### **New Claims**

New claim 106 requires “A method of contraception comprising: a) inserting within a fallopian tube a contraceptive device having a tubular structure with a first end, a second end and a lumen extending therein, and a tissue ingrowth element connected to the tubular structure; b) expanding the tubular structure within the fallopian tube from a first configuration to a second larger configuration; and c) epithelializing the tissue ingrowth element to thereby occlude the fallopian tube.”

New claim 107 requires “A contraceptive or sterilization device for occluding a fallopian tube to inhibit conception, comprising: a) a tubular structure having a first end, a second end, and a lumen extending therein, the tubular structure expandable within the fallopian tube from a first configuration to a second larger configuration; and b) a tissue ingrowth element wound into the tubular structure, the tissue ingrowth element inciting tissue ingrowth to thereby occlude the fallopian tube.”

It is Applicant’s understanding these features are not taught by the prior art of record.

Pursuant to 37 C.F.R. § 1.136(a)(3), applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. §§ 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

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/Jacob Aikin/

Jacob T. Aikin  
Reg. No. 62,787

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(408) 720-8300